

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Ryan P. Navratil,

Civil File No.: 11-cv-3485 JNE/SER

Petitioner,

v.

REPORT AND RECOMMENDATION

Lucinda Jesson,
Dennis Benson,

Respondents.

Ryan P. Navratil, *pro se*, MSOP, 1111 Highway 73, Moose Lake, Minnesota 55767.

Matthew Frank and John Gross, Esqs., Minnesota Attorney General's Office, 445
Minnesota Street, Suite 1800, Saint Paul, Minnesota 55101, for Respondents.

STEVEN E. RAU, United States Magistrate Judge

This matter is before the undersigned on Ryan P. Navratil's ("Navratil") informal motion for voluntary dismissal [Doc. No. 9]. The case has been referred for a Report and Recommendation pursuant to 28 U.S.C. § 636 and Local Rule 72.1. The court recommends that Navratil's informal motion be granted.

Navratil filed a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, claiming he is being illegally detained by Respondents for reasons which are violative of his rights under the Constitution and laws of the United States. [Doc. No. 1]. Respondents answered Navratil's petition on January 27, 2012. [Doc. Nos. 6-8]. By a letter dated February 22, 2012, Navratil seeks to voluntarily withdraw his petition. [Doc. No. 9]. Navratil concedes that he lacks the knowledge and understanding to continue with his petition without legal

counsel. (Id.). The court interprets Navratil's letter as a motion to voluntarily dismiss his petition.

The Federal Rules of Civil Procedure govern Section 2254 habeas cases in the United States District Courts. *See* Rule 1(b) Governing Section 2254 Cases in the United States District Courts. Fed. R. Civ. P. 41(a)(2) allows the court to dismiss an action "on terms the court considers proper." Id. Because Respondents answered the petition, dismissal pursuant to Fed. R. Civ. P. 41(a)(1) is not appropriate. Based on Navratil's concerns for prejudicing himself by continuing *pro se*, however, the court finds dismissal proper. *See* Fed. R. Civ. P. 41(a)(2). Furthermore, Navratil's rights to participate in any future class action law suits or habeas petitions should not be prejudiced by this voluntary dismissal. Accordingly, **IT IS HEREBY RECOMMENDED** that:

1. Navratil's informal Motion for Voluntary Dismissal [Doc. No. 9] be **GRANTED**;
2. Navratil's rights to participate in future class action law suits or habeas corpus petitions be preserved; and
3. Navratil's Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 [Doc. No. 1] be **DISMISSED WITHOUT PREJUDICE**.

Dated: March 9, 2012

s/ Steven E. Rau
STEVEN E. RAU
United States Magistrate Judge

Under D. Minn. LR 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court and serving all parties by **March 23, 2012**, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable to the Court of Appeals.